

EXHIBIT J

PART 5

1 Mr. Hartman. We're not going to finish anything
2 until you give me the chance.

3 MR. HARTMAN: Go ahead.

4 MR. ROBINSON: We don't need the
5 unprofessional comments.

6 MR. HARTMAN: That's fine.

7 MR. ROBINSON: You've done it a
8 number of times.

9 MR. HARTMAN: That's fine.

10 MR. ROBINSON: So there's really no
11 need for it.

12 MR. HARTMAN: That's fine.

13 MR. ROBINSON: You asked a
14 misleading question that was argumentive.

15 THE WITNESS: Let's take a break.

16 MR. ROBINSON: Hold on. That was
17 argumentive and it was very misleading, so I
18 raised the objection, and you know you did it, so
19 let's just move on with your next question.

20 MR. HARTMAN: Sir, was --

21 MR. ROBINSON: Hold on, the witness
22 wants to take a break, so let's take a break.

23 MR. HARTMAN: Well, I want to ask
24 one question.

1 MR. ROBINSON: No, we're taking a
2 break.

3 MR. HARTMAN: I want to ask one
4 question, sir.

5 MR. ROBINSON: We are taking a
6 break.

7 MR. HARTMAN: If you need to take a
8 break --

9 MR. ROBINSON: You're not going to
10 ask another question.

11 BY MR. HARTMAN:

12 Q. Sir, my question is: Was my
13 question to you misleading, so that I can prepare
14 a better question for when you come back off the
15 break; was there any part of my question when I
16 asked you to assume certain facts that was
17 misleading?

18 MR. ROBINSON: I'll object to the
19 form of that question.

20 A. And I forget the specifics of the
21 question now after this banter, so when we come
22 back --

23 Q. When I asked you the question, did
24 you feel it was misleading?

1 MR. ROBINSON: Would you let the
2 witness take the break that he asked for, Mr.
3 Hartman, can you give him that professional
4 courtesy?

5 MR. HARTMAN: Yeah, I'll do that.
6 I want to prepare my question. I mean, I want to
7 make sure that it's not misleading.

8 MR. ROBINSON: We'll have time to
9 do that today.

10 THE VIDEOGRAPHER: Do you agree to
11 go off the record at the same time?

12 MR. ROBINSON: Yeah.

13 THE VIDEOGRAPHER: Then we are
14 going off the record. One second, please. We are
15 off.

16 (Brief recess.)

17 THE VIDEOGRAPHER: You're back on
18 the record.

19 BY MR. HARTMAN:

20 Q. Sir, I'm going to restate the
21 question that was proposed to you earlier, and I
22 want you to listen carefully. I want you to
23 assume that Ms. Linguist's foot was outside of the
24 foot control before she began hand-forming the

1 part on the press brake and that her foot somehow
2 inadvertently activated the foot control so as the
3 die closed in on her hand -- the press closed in
4 on her hand.

5 Would you agree, sir, that under
6 those circumstances there's no indication that she
7 would have been riding the foot control prior to
8 the activation?

9 MR. ROBINSON: I'll object to the
10 hypothetical, not based upon facts of record.

11 A. Based upon that hypothetical, I have
12 to say no.

13 Q. No, what?

14 A. Or yes.

15 Q. Yes?

16 A. Yes.

17 Q. Okay. Yes, there's no evidence of
18 riding the foot control in that situation; am I
19 correct?

20 A. Yes.

21 Q. On page 3 of your report under
22 "Standards and Regulations," it says: "The
23 American National Standards Institute is a private
24 organization that is in the business of providing

1 procedures and governance for the development of a
2 national consensus standards." Did I correctly
3 read that?

4 A. Yes.

5 Q. Am I correct, sir, that ANSI sells
6 standards; they don't adopt standards?

7 MR. ROBINSON: They do what?

8 A. No.

9 Q. Sell the standards.

10 MR. ROBINSON: Sell the standards?

11 Q. Yes.

12 A. They do sell standards, yes.

13 Q. ANSI does not write standards; am I
14 correct?

15 A. That's correct.

16 Q. Another group writes the standards
17 and adopts standards?

18 A. Well, what do you mean by adopt?

19 Q. Well, what does the subcommittee
20 group do in order to get -- develop a standard?

21 A. They sit down and write a standard.

22 Q. And then, ultimately, it's approved
23 by a certain number of the members of the
24 subcommittee; am I correct?

1 A. Not the subcommittee. A different
2 committee.

3 Q. Who's the different committee?

4 A. The committee that's established by
5 the standards development organization.

6 Q. And that would be the subcommittee
7 picks a committee to approve of the subcommittee's
8 standard?

9 A. No, the other way around. The
10 Accredited Standards Committee picks a
11 subcommittee to write a standard. The
12 subcommittee writes the standard, and the
13 Accredited Standards Committee approves it.

14 Q. And ANSI basically markets the
15 standard; am I correct?

16 A. No. ANSI gives its final approval,
17 which basically gives it the ANSI label. It's not
18 an ANSI standard until ANSI approves it.

19 Q. Well, sir, am I correct that ANSI
20 doesn't evaluate the standard itself, they
21 evaluate the procedures by which the standard was
22 developed?

23 A. Correct.

24 Q. So when ANSI adopts a standard, they

1 merely say by adopting it that that standard has
2 met their procedural requirements so that they can
3 say it's theirs now?

4 A. The operative term is "approve," not
5 adopt, approve.

6 Q. Okay. So when ANSI approves a
7 standard, they're not approving the substance of
8 the standard, they're approving the procedure by
9 which the standard was developed?

10 A. Correct.

11 Q. ANSI doesn't write standards and
12 evaluate the standards from a substantive basis?

13 A. Correct.

14 Q. Are you aware that ANSI now is
15 moving further away from their standards?

16 MR. ROBINSON: Object to the form
17 of the question.

18 A. I don't understand what you mean by
19 that question.

20 Q. Mr. Switalski indicated that ANSI is
21 now trying to move out of the standards business
22 because they don't want liability for standards
23 that have been approved by them; are you aware of
24 that?

1 A. No.

2 Q. You're not aware of lawsuits that
3 have been brought against ANSI for standards that
4 have been issued that have caused injury?

5 MR. ROBINSON: I'll object to the
6 form of that question.

7 A. No, I know of no standard that's
8 ever caused an injury.

9 Q. Okay. Do you know of any litigation
10 brought by ANSI by an injured because they took
11 issue with the standard that ANSI approved?

12 A. No.

13 Q. Is ANSI undertaking any type of
14 changes in its corporate structure that you're
15 aware of as it relates to identifying itself with
16 the standards that historically it had approved?

17 A. I'm not aware of any.

18 Q. Let's go to page 4, second full
19 paragraph, it says: "Although, power presses and
20 power press brakes are both metal-forming machine
21 tools, there exists significant differences in the
22 operation and safety aspects of these machines so
23 as to justify two different safety standards"; am
24 I correct? Did I correctly read that?

1 A. Yes.

2 Q. Is that your testimony today?

3 A. Yes.

4 Q. And once again, just for
5 clarification, you would not apply a power press
6 standard to press brakes nor would you do it vice
7 versa; am I correct?

8 A. Except for the qualification that I
9 stated earlier this morning.

10 Q. Which was?

11 A. In some applications a press brake
12 is used to do power press-type work; remember
13 that?

14 Q. Right.

15 A. Okay.

16 Q. With regard to foot controls,
17 though, you wouldn't apply the power press
18 standard to the press brake standard?

19 A. Not necessary, no.

20 MR. ROBINSON: I object to the form
21 of that question.

22 Q. And with regard to evaluation to
23 safety of a particular type of foot control, you
24 would not analyze that foot control on punch

1 presses and then make the conclusion -- apply that
2 conclusion to press brakes; would you?

3 MR. ROBINSON: Objection to the
4 form.

5 A. I see no need to do that, no.

6 Q. So if you're analyzing foot controls
7 and press brakes, you would analyze foot controls
8 on press brakes?

9 MR. ROBINSON: Object to the form
10 of the question.

11 A. Yes.

12 Q. You wouldn't analyze foot controls
13 on punch presses?

14 MR. ROBINSON: Same objection.

15 A. For the -- For what purpose?

16 Q. For the safety of the foot control
17 as it relates to utilizing it on a press brake.

18 A. Oh, I don't know. You may want to
19 cross-reference that. You may want to look at
20 what's written in another standard. We do that
21 all the time, as we did all of the new standards
22 or as we revise old ones, to share the knowledge
23 of what another subcommittee has written about a
24 particular subject. I can't say that we've done

1 that with regard to foot switches over the years,
2 but certainly with respect to programable logic
3 controllers and other types of systems on
4 machinery, we utilize the work of other
5 committees, rather than to try to reinvent the
6 wheel when we're working on our own standards in
7 our own subcommittee.

8 Q. But with regard to foot controls on
9 press brakes, you would analyze foot controls
10 utilized in conjunction with press brakes; am I
11 correct?

12 MR. ROBINSON: Objection, asked and
13 answered. You've just ignored what he said.

14 Q. Am I correct, sir?

15 A. No. You just -- I just answered
16 your question --

17 Q. No. You --

18 A. -- by saying that we may or may not
19 evaluate what's written in another standard
20 regarding foot switches or foot controls for all
21 of the reasons that I just gave you in that answer
22 about referencing what other standards have
23 written about programable logic controls and
24 things like that. The dynamic of developing a

1 standard is such that you don't do it in a
2 subcommittee in a vacuum. You do it in a
3 subcommittee gleaning information and knowledge of
4 what other subcommittee work is being done and
5 gain from the overall experience of the other
6 people.

7 Q. With regard to drafting a standard,
8 you're talking about that context; am I correct?

9 A. Yes.

10 Q. But if you were out there evaluating
11 whether or not you wanted to put a foot control on
12 a press brake, the type you should utilize, would
13 I be correct that you would want to analyze foot
14 controls used on press brakes to see which is the
15 safest?

16 MR. ROBINSON: Objection, asked and
17 answered, also to the form.

18 A. Yeah. I think, I think the same
19 type of dynamic takes place out in the actual
20 workplace. When a user of a press brake for one
21 reason or another is having a problem with a
22 control mechanism, whether it's a foot control or
23 a palm button or whatever it is, they may look at
24 the control on another machine and say that's a

1 pretty good control, works pretty good for our
2 people, even though it may be on an injection
3 molding machine or something completely different,
4 you know, that works well, the people are used to
5 it, they're comfortable using it, and that type of
6 control would work on this machine, does it -- and
7 then make the evaluation, if that control creates
8 any conflict with the particular ANSI standard for
9 the machine that you're working on.

10 Q. Do you believe that the
11 hazards -- Do you believe there's the same hazard
12 associated with inadvertent activation of punch
13 presses as it relates -- exists as the hazard in
14 conjunction with press brakes?

15 MR. ROBINSON: Objection to the
16 form.

17 A. I need to hear that again. I'm
18 sorry.

19 Q. Okay. Is there any difference in
20 the number of -- Strike that.

21 Is riding the foot control -- the
22 propensity to ride the foot control the same on
23 punch presses as it is press brakes?

24 MR. ROBINSON: Object to the form.

1 A. I can't answer that question
2 definitively. It all depends on the work that's
3 being performed on the machine, press brake versus
4 punch press or power press.

5 Q. How about the typical application
6 that you would use a press brake as opposed to the
7 typical application for a punch press, is riding
8 the foot control as prevalent on a press brake in
9 its typical use as opposed to punch presses?

10 MR. ROBINSON: Objection to the
11 form.

12 A. I don't think I can answer that
13 question because of the varied uses I've seen for
14 both of those particular machine types. There are
15 jobs on power presses that are more conducive to
16 riding than there are elsewhere on other machines,
17 on other presses, and the same for press brakes.
18 Some jobs are just -- you know, invite that type
19 of operation, whereas, other jobs make it very
20 impractical to ride. So it's really hard to say
21 that, you know, power press work is more conducive
22 to riding than press brake work. It just doesn't
23 fit that way.

24 Q. So you don't know?

1 MR. ROBINSON: No, no, no.

2 Objection to the form.

3 THE WITNESS: That's not what I
4 said.

5 MR. ROBINSON: He said he can't
6 make the determination. He didn't say he doesn't
7 know.

8 BY MR. HARTMAN:

9 Q. Well, if you can't make a
10 determination, do you know?

11 MR. ROBINSON: Well, you can argue
12 that all you want until you're blue in the face,
13 that's your own interpretation of that. I object
14 to the form.

15 Q. When you say you can't make a
16 determination, would I be correct in stating that
17 you can't give an opinion as to whether or not
18 there's a greater propensity for riding the pedal
19 with press brakes as opposed to punch presses?

20 MR. ROBINSON: Yeah, objection.
21 That isn't what he said. He said you can't make a
22 determination, they both have propensities, and
23 you can't categorize one versus the other as you
24 want him to do.

1 MR. HARTMAN: I'm not asking him to
2 categorize.

3 MR. ROBINSON: No, that is what you
4 wanted him to do. He's given you an answer.

5 MR. HARTMAN: Paul, let me ask my
6 question, okay?

7 MR. ROBINSON: I did.

8 MR. HARTMAN: Quit testifying.

9 MR. ROBINSON: Now I'm objecting to
10 it.

11 MR. HARTMAN: Quit testifying.

12 MR. ROBINSON: There's no testimony
13 here.

14 MR. HARTMAN: Yes, there is.

15 BY MR. HARTMAN:

16 Q. Do you know whether or not the
17 hazard of riding the foot control is greater
18 than -- greater on a press brake than it is on a
19 punch press?

20 MR. ROBINSON: Objection, asked and
21 answered, also to the form.

22 A. The hazard is the same. Whether it
23 happens more often on one versus the other,
24 there's just too much variety, variability, in the

1 operation of the machines in their own particular
2 families to make that determination that one is
3 more likely to be ridden than the other, just
4 can't make that determination.

5 Q. So you're saying it's based on the
6 use to which the machine is put to at the
7 particular time gives rise to the risk?

8 A. Use of a machine at a particular
9 time, use of a machine in a particular facility
10 that makes a particular type of part. There's --
11 It's all over the ballpark.

12 Q. Is there a correlation between the
13 speed by which you have to operate the machine
14 with the foot control and the propensity to ride
15 the pedal?

16 MR. ROBINSON: Objection to the
17 form.

18 A. Not in my experience.

19 Q. So if you have to do 60 parts a
20 minute as opposed to 20 parts a minute, the
21 propensity to ride the pedal with a particular
22 foot switch would not be greater in 60 parts per
23 minute as opposed to 20 parts per minute?

24 MR. ROBINSON: Objection to form.

1 A. Not in my experience.

2 Q. Would there be a difference with
3 regard to propensity of riding the pedal with
4 regard to actions you have to take after you've
5 formed the part or work with the part and the
6 propensity to ride the pedal?

7 MR. ROBINSON: Objection to the
8 form.

9 Q. Meaning, if you have to form the
10 part and then put it somewhere, does that increase
11 or decrease the propensity to ride the pedal?

12 MR. ROBINSON: Objection to the
13 form.

14 A. It depends on where somewhere is.
15 If it's a step away or two steps away, then
16 obviously riding the foot pedal is not taking
17 place, but if it's within arm's reach, riding the
18 foot pedal could continue to take place. So there
19 is a function there.

20 Q. Okay. Is there a correlation
21 between the propensity to ride the pedal based on
22 sitting or standing?

23 MR. ROBINSON: Objection to the
24 form of the question. Excuse me, I'm sorry.

1 A. Not in my experience.

2 Q. What factors correlate to the
3 increased propensity to riding the pedal in your
4 experience?

5 MR. ROBINSON: Objection, asked and
6 answered at length, also to the form.

7 A. The type of work that's being
8 performed on a machine, the type of safeguarding,
9 the type of use of the machine, the size of the
10 part, the location of the parts as the blanks
11 before they go into the work area, as they're
12 retrieved from the work area and where they're
13 stored after, the type of foot control, the
14 location of the foot control, all of those are
15 factors, the posture and position of the operator,
16 the build of the operator, all of that goes into
17 the dynamic of operating machinery.

18 Q. In your 29 years with Cincinnati,
19 did you ever come across any information that
20 Cincinnati's inclusion of a gated foot control
21 with its press brakes gave rise to increased
22 riding of the pedal?

23 MR. ROBINSON: Objection to the
24 form, also asked and answered.

1 A. Yeah, I think I answered that once
2 before, that there was no data, but there was just
3 a continued awareness that riding of the foot
4 pedal was becoming a common occurrence on gated
5 foot switches.

6 Q. Was there any difference on the foot
7 switches between -- You know what a mouse trap
8 design is?

9 A. A mouse trap design?

10 Q. Yeah. Do you know what a top-hinged
11 or bottom-hinged gated foot control is?

12 A. Yeah.

13 Q. What is the bottom -- The mouse trap
14 design, my understanding is that it's a
15 bottom-hinged gated foot control.

16 A. The Allen Bradley switch, yeah.

17 Q. Is there a difference in the
18 riding -- incidence of riding the pedal between
19 the bottom-hinged gated foot control as opposed to
20 a top-hinged gated foot control?

21 MR. ROBINSON: Objection to the
22 form.

23 A. In my experience on most of the
24 Allen Bradley bottom-hinged switches that I've

1 seen, the trap door has been removed or the spring
2 has been cut.

3 MR. ROBINSON: Or, I'm sorry?

4 A. Spring has been cut.

5 MR. ROBINSON: Thank you.

6 A. So the trap door lays flat and it's
7 out of the picture.

8 Q. Okay. And on the top-hinged ones
9 like the Linemaster 511 -- Is that what Cincinnati
10 utilized?

11 MR. ROBINSON: Objection to the
12 form.

13 A. Yes.

14 Q. Okay. Are you aware of
15 Cincinnati -- Did Cincinnati ever do a safety
16 alert or a recall notice or something to its -- to
17 the owners of its press brakes that they were now
18 offering gated foot controls?

19 A. Yes.

20 Q. Okay. And do you recall what those
21 safety alerts said?

22 MR. ROBINSON: Let me object to the
23 form, just the terms that you chose, I don't --
24 Let me just leave it at that.

1 A. The company developed product safety
2 data sheets on each feature that was available on
3 press brakes or shears or whatever products that
4 the company was making. And the foot switch had
5 its own particular product information sheet
6 describing what it did and what the retrofit
7 package included and how to go about obtaining a
8 retrofit package.

9 Q. Were you part of that
10 decision-making process?

11 A. I was part of the development of
12 that data sheet.

13 Q. Okay. And was that data sheet
14 accurate as it was put out to the public?

15 A. Actually, I should correct that
16 prior sentence. I was involved in the revision
17 and updating of that data sheet, because that data
18 sheet was generated before I joined the product
19 safety department. And, of course, it was
20 accurate in what it said.

21 Q. Do you agree that a safety retrofit
22 kit that included a gated foot control was safer?

23 MR. ROBINSON: Object to the form
24 of the question.

1 A. No.

2 Q. Was it more dangerous?

3 A. No.

4 Q. Would it be safer in circumstances?

5 MR. ROBINSON: Object to the form
6 of the question.

7 A. Yes.

8 Q. Was the gated foot control to --
9 utilized to prevent inadvertent activation of the
10 foot control?

11 A. Yes.

12 Q. If the gate is in place and the
13 operator is not riding the pedal, does the gate
14 work to inhibit inadvertent activation of the foot
15 control?

16 A. Yes.

17 MR. ROBINSON: Objection to the
18 form.

19 A. Yes, but, you know, sistering to
20 your previous question, is it safer, yes, in some
21 respects; it's more dangerous also in some
22 respects, too. So they balance itself -- it
23 balances itself.

24 Q. It's more dangerous because of why?

1 A. Because it encourages riding the
2 foot switch.

3 Q. Well, is it your testimony today,
4 sir, that the dangers of riding the foot control
5 are equal to the benefit of preventing inadvertent
6 activation when the foot -- the gated foot control
7 is made available to the public?

8 MR. ROBINSON: Object to the form
9 of the question.

10 A. In the overall scheme of things,
11 yes.

12 Q. So it's a neutral device, then?

13 A. Yes.

14 Q. It really -- From your testimony, it
15 doesn't make the machine safer?

16 A. It never was -- I think that's a
17 mischaracterization of what the trap door or the
18 flapped-gated foot switch was ever intended to do.
19 It was intended to reduce the likelihood of an
20 inadvertent actuation of the machine. Whether a
21 machine is inadvertently actuated or not, if it's
22 properly safeguarded, everything is okay. You can
23 still have some damage to machine components and
24 things like that in an inadvertent cycle of the

1 machine, but if the machine is properly
2 safeguarded, you're not going to get an individual
3 injured.

4 Q. Is it your testimony today that a
5 properly safeguarded machine cannot cause injury
6 to anyone through an inadvertent activation?

7 A. Of course not. That's not what I've
8 said all day long.

9 Q. Okay. So a properly guarded machine
10 can cause injury to the operator in certain
11 circumstances; am I correct?

12 MR. ROBINSON: I'll object to the
13 form.

14 A. Not only the operator. You just
15 said it before, you said it could be anybody, and
16 that's a true statement.

17 Q. The operator --

18 A. So don't just narrow it down to the
19 operator.

20 Q. Okay. Or the operator could be
21 injured; am I correct?

22 A. Yes.

23 Q. The person -- A coworker could be
24 injured, correct?

1 A. Yes.

2 Q. The maintenance people can be
3 injured; am I correct?

4 A. Yes.

5 Q. A technician can be injured; am I
6 correct?

7 A. You can say "personnel," just say
8 "personnel," that term.

9 Q. All personnel could be injured on a
10 properly guarded machine at certain times?

11 A. That probability exists.

12 MR. ROBINSON: Continuous objection
13 to the form of all of those questions.

14 Q. Would I be fair, sir, to say that
15 you know of that actually happening out there in
16 the field in your 30 years of experience?

17 A. Of what?

18 MR. ROBINSON: Objection. We went
19 through all of these questions and answers
20 previously in the deposition.

21 MR. HARTMAN: Well, Paul, if we
22 have, which I disagree, what does your objection
23 do, because I'm going to continue asking anyway,
24 so what does your objection do?

1 MR. ROBINSON: What does it do?

2 MR. HARTMAN: Yes.

3 MR. ROBINSON: It preserves the
4 objection to asked and answered.

5 MR. HARTMAN: Oh, okay.

6 MR. ROBINSON: So once you've
7 already gotten your answer that you're not
8 satisfied with, if you ask it again and the
9 witness says something different, then the law
10 doesn't allow that trap to occur, to answer your
11 legal question.

12 MR. HARTMAN: It wasn't a trap.

13 THE VIDEOGRAPHER: Excuse me, can
14 we go off the record for one second, please.

15 (Brief recess.)

16 THE VIDEOGRAPHER: You're back on
17 the record.

18 BY MR. HARTMAN:

19 Q. Sir, are you aware of individuals
20 being injured when there was proper point of
21 operation protection on press brakes?

22 MR. ROBINSON: Same objection.

23 A. Yes.

24 Q. Do you -- Today can you describe any

1 examples of how that would occur?

2 A. An operator is operating a press
3 brake and the point of operation safeguarding
4 utilized for the job that was being done is a
5 presence sensing device. The presence sensing
6 device is set for the operator while he or she is
7 in position in front of the machine loading the
8 part, removing the part, so the bottom-most light
9 casts its beam across the top of the work piece
10 and, you know, above the operator's hands.

11 During the operation, the operator
12 goes and gets a chair and sits down and continues
13 operating the press brake doing the same job. Now
14 his hands are coming at the point of operation at
15 a different angle, which is lower and below the
16 sensing field of the point of operation. He
17 cycles the machine thinking -- or his foot is in
18 the foot control, and he reaches in thinking that
19 the light beam is going to stop the machine, and
20 in actuality, he's reaching under the light
21 device, and an injury takes place.

22 Q. I believe your report indicates that
23 a brake press is part of a system; am I correct?

24 A. Yes.

1 Q. Would you agree that with regard to
2 the brake press, when it's sold in conjunction
3 with a foot control, that both the brake press and
4 the foot control should be designed so as to
5 inhibit to the extent feasible inadvertent
6 activation?

7 MR. ROBINSON: I'll object to the
8 form of that question.

9 A. No. There's no practical way for a
10 supplier of a press brake to do that and ensure
11 that that is -- ensure that that gets done once
12 the machine is put in operation.

13 Q. Okay. Would you agree that, when a
14 foot control is supplied with a press brake, that
15 the foot control should be designed so as to
16 inhibit to the extent feasible inadvertent
17 activation?

18 MR. ROBINSON: Objection to the
19 form.

20 A. That's part of the requirements in
21 the ANSI standard. Yes.

22 Q. And is inadvertent activation of a
23 foot control ever a good thing?

24 MR. ROBINSON: Objection to the

1 form.

2 A. No.

3 Q. Would you agree, sir --

4 A. I think that's a -- No, I have to
5 say no to that question, but -- yeah, that's no.

6 Q. Would you agree that, had not
7 Ms. Lindquist inadvertently activated the foot
8 control on the date of her accident, she wouldn't
9 have suffered the injuries she had?

10 MR. ROBINSON: Objection to the
11 form.

12 A. Say that again.

13 Q. Would you agree, sir, that had not
14 Ms. Lindquist inadvertently operated the foot
15 control on the day of her accident, she wouldn't
16 have sustained the injuries she sustained?

17 MR. ROBINSON: Same objection.

18 A. If she had not inadvertently
19 actuated the foot switch, the machine would not
20 have cycled, no.

21 Q. And she wouldn't have been injured,
22 correct?

23 A. Correct.

24 Q. And if there was a gate on the foot

1 control that she was utilizing that day and that
2 gate had operated so as to prevent her from
3 inadvertently activating the foot control, she
4 wouldn't have had the injuries she has today; am I
5 correct?

6 MR. ROBINSON: I'll object to the
7 form of the question.

8 A. No, I don't believe that. The gate
9 serves the same purpose as the toe release. We
10 really don't know whether the foot switch on the
11 day of the operation had a toe release or not. A
12 lot of people are speculating about that, but, you
13 know, whether there was a toe release or whether
14 there was a gated foot switch or whether it was a
15 foot switch with neither, I think the likelihood
16 of it happening is all the same because I think
17 her foot was there inside the switch.

18 Q. Sir, if you assume that
19 Ms. Lindquist testified accurately when she said
20 her foot was outside of the foot control before
21 the activation of the machine that caused her the
22 injury, and there was a gate on the foot control,
23 and the gate served its purpose so as to prevent
24 or inhibit inadvertent activation, would you agree

1 under that set of circumstances this accident
2 would not have occurred?

3 MR. ROBINSON: Objection to the
4 form of the question.

5 A. Well, there's no arguing that. I
6 mean, given that very narrow, specific set of
7 circumstances and assuming that the gate performed
8 its function, you're making a lot of assumptions,
9 but you have to agree with that, yes.

10 Q. Well, the gate's intended function
11 is to prevent the foot from going in the foot
12 control inadvertently; am I correct?

13 A. Yes, and we know that that doesn't
14 always happen to do that.

15 Q. But it does work in a majority of
16 the situations; am I correct?

17 MR. ROBINSON: Objection.

18 A. But it doesn't always do that.

19 MR. ROBINSON: Please, objection.

20 Q. But I'm asking --

21 MR. ROBINSON: Hold on.

22 MR. HARTMAN: Go ahead.

23 MR. ROBINSON: I want to make sure
24 there's an objection to the form of that question.

1 BY MR. HARTMAN:

2 Q. Well, would you agree, sir, that
3 nothing always happens?

4 A. That's right.

5 MR. ROBINSON: I'll object to the
6 form of that question, and it's also argumentive.

7 Q. Would you agree that no safety
8 feature always works?

9 MR. ROBINSON: Objection to the
10 form.

11 A. I can't answer that question.
12 That's a pretty broad -- Given time, I could
13 probably come up with some safety feature that's
14 always functional, always works.

15 Q. But none off the top of your head
16 today, correct?

17 A. Not right off the top of my head,
18 no.

19 Q. Okay. And the intended function of
20 the --

21 A. Acknowledging that you guys need to
22 get airplanes out of here too.

23 Q. Well, I'm going to ask you, the
24 intended function of the gate on the foot control

1 is to prevent the foot from inadvertently sliding
2 into the foot control, correct?

3 MR. ROBINSON: I'll object to the
4 form of the question and the term "prevent."

5 A. The intent is to minimize
6 inadvertent actuation of the foot switch, the same
7 as the toe release is to minimize inadvertent
8 actuation.

9 Q. And if you have a toe release and a
10 foot control -- Strike that.

11 If you have a toe release and a gate
12 on a foot control, there's two means that would be
13 utilized to prevent inadvertent activation of the
14 foot control; do you agree?

15 MR. ROBINSON: Object to the form.

16 A. Yes, just like there's two means to
17 encourage riding of the foot switch.

18 Q. But you have no evidence or no
19 research that shows that that occurs on that
20 particular foot switch; do you?

21 MR. ROBINSON: I'll object to the
22 form of the question. It ignores all of his prior
23 testimony. It's been asked and answered.

24 THE WITNESS: I'm sorry?

1 MR. HARTMAN: Read back the
2 question.

3 (The record was read back by the court reporter.)

4 BY MR. HARTMAN:

5 A. I think I've testified previously
6 that my experience of working in the industry and
7 being in factories over the past 30 years has
8 educated me on that particular situation.

9 Q. Do you believe, sir, today that if a
10 safety device by being placed on a machine offers
11 the same amount of benefit as it does harm that it
12 should be included standard on a machine?

13 MR. ROBINSON: Objection to the
14 form, breadth.

15 A. I can't answer that without knowing
16 more about the circumstances surrounding a
17 particular machine or surrounding a particular
18 safety device.

19 Q. Well, if, sir, your testimony is is
20 that a gated foot control promotes riding the foot
21 control, and by promoting the riding of the foot
22 control, the number of injuries is the same as
23 that -- those injuries that would have been
24 prevented by the gate by inhibiting inadvertent

1 foot control, activation of the foot control, do
2 you think that type of device should be included
3 with the machine?

4 MR. ROBINSON: Objection to the
5 form.

6 A. I think I testified earlier that
7 with proper supervision a gated foot control can
8 achieve its stated goal; but like anything else
9 that takes place in the workplace, it requires
10 management oversight, and supervision, and
11 discipline.

12 Q. I understand that.

13 A. So if you don't enforce rules and
14 enforce things like no riding of the foot controls
15 or tying up of the trap doors or tying back of the
16 toe releases -- if those types of things are
17 allowed to happen, then you're going to see the
18 same result as if they didn't exist at all.

19 Q. All right.

20 A. But if you do enforce all of those
21 things and ensure that trap doors, gates, do not
22 get tied up or foot controls do not get ridden,
23 then the result will be a decrease in occurrences,
24 I believe.